

AMENDED IN ASSEMBLY APRIL 29, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2133**

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**Introduced by Assembly Member Niello**

February 18, 2010

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An act to amend Section 2621.7 of the Public Resources Code, relating to geologic hazards.

LEGISLATIVE COUNSEL'S DIGEST

AB 2133, as amended, Niello. Geologic hazards: earthquake fault zoning.

Under the Alquist-Priolo Earthquake Fault Zoning Act, prior to approving a project within an earthquake fault zone, a city or county is directed to require the preparation of a geologic report, subject to certain exceptions. Existing law exempts from this requirement certain projects for alterations that include seismic retrofitting if a city or county, among other things, requires certain seismic retrofitting and prohibits an increase in human occupancy load.

Existing law specifically exempts projects relating to structures owned and operated by state entities and agencies listed on the California Register of Historical Resources or the National Register of Historic Places, including the California Memorial Stadium, if the state agency or entity submits a plan of proposed alterations to the State Geologist.

~~This bill would limit the exemption for historical structures to any structure owned and operated by the University of California and located on the Berkeley campus, including the California Memorial Stadium. That exemption would not apply unless the building permit authorizes no greater human occupancy load, regardless of proposed use, than authorized on January 1, 2010, and unless the university requires seismic~~

~~retrofitting that is necessary to strengthen the entire structure and provide increased resistance to ground shaking from earthquakes delete that exemption.~~

*The bill, instead, would exempt the University of California, Berkeley, including the California Memorial Stadium from the application of the act. The bill would state that the Legislature finds and declares that the University of California, Berkeley, including the California Memorial Stadium, requires seismic retrofitting, as defined, which is necessary to strengthen structures and provide increased resistance to ground shaking from an earthquake.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 2621.7 of the Public Resources Code is
- 2 amended to read:
- 3 2621.7. This chapter, except Section 2621.9, shall not apply
- 4 to any of the following:
- 5 (a) The conversion of an existing apartment complex into a
- 6 condominium.
- 7 (b) Any development or structure in existence prior to May 4,
- 8 1975, except for an alteration or addition to a structure that exceeds
- 9 the value limit specified in subdivision (c).
- 10 (c) An alteration or addition to any structure if the value of the
- 11 alteration or addition does not exceed 50 percent of the value of
- 12 the structure.
- 13 (d) (1) Any structure located within the jurisdiction of the City
- 14 of Berkeley or the City of Oakland which was damaged by fire
- 15 between October 20, 1991, and October 23, 1991, if granted an
- 16 exemption pursuant to this subdivision.
- 17 (2) The city may apply to the State Geologist for an exemption
- 18 and the State Geologist shall grant the exemption only if the
- 19 structure located within the earthquake fault zone is not situated
- 20 upon a trace of an active fault line, as delineated in the official
- 21 earthquake fault zone map or in more recent geologic data, as
- 22 determined by the State Geologist.
- 23 (3) When requesting an exemption, the city shall submit to the
- 24 State Geologist all of the following information:

1 (A) Maps noting the parcel numbers of proposed building sites  
2 that are at least 50 feet from an identified fault and a statement  
3 that there is not any more recent information to indicate a geologic  
4 hazard.

5 (B) Identification of any sites that are within 50 feet of an  
6 identified fault.

7 (C) Proof that the property owner has been notified that the  
8 granting of an exemption is not any guarantee that a geologic  
9 hazard does not exist.

10 (4) The granting of the exemption does not relieve a seller of  
11 real property or an agent for the seller of the obligation to disclose  
12 to a prospective purchaser that the property is located within a  
13 delineated earthquake fault zone, as required by Section 2621.9.

14 (e) (1) Alterations~~which~~ *that* include seismic retrofitting, as  
15 defined in Section 8894.2 of the Government Code, to any of the  
16 following *listed types of* buildings in existence prior to May 4,  
17 1975:

18 (A) Unreinforced masonry buildings, as described in subdivision  
19 (a) of Section 8875 of the Government Code.

20 (B) Concrete tilt-up buildings, as described in Section 8893 of  
21 the Government Code.

22 (C) Reinforced concrete moment resisting frame buildings as  
23 described in Applied Technology Council Report 21 (FEMA  
24 Report 154).

25 ~~(D) Any structure owned and operated by the University of~~  
26 ~~California and located on the Berkeley campus that is listed on the~~  
27 ~~California Register of Historical Resources or the National Register~~  
28 ~~of Historic Places, including the California Memorial Stadium.~~  
29 ~~This exemption shall not apply unless the university submits a~~  
30 ~~plan of proposed alterations to the State Geologist. The addition~~  
31 ~~of this subparagraph does not modify, alter, conflict with, or~~  
32 ~~supersede the intent of applicability of any other provisions of this~~  
33 ~~chapter. This exemption applies to alterations to a structure subject~~  
34 ~~to this subparagraph, if both of the following occur:~~

35 ~~(i) The building permit for the structure authorizes no greater~~  
36 ~~human occupancy load, regardless of the proposed use, than that~~  
37 ~~authorized on January 1, 2010.~~

38 ~~(ii) The university requires seismic retrofitting, as defined in~~  
39 ~~Section 8894.2 of the Government Code, which is necessary to~~

1 ~~strengthen the entire structure and provide increased resistance to~~  
2 ~~ground shaking from earthquakes.~~

3 (2) The exemption granted by ~~subparagraphs (A), (B), and (C)~~  
4 ~~of paragraph (1)~~ shall not apply unless a city or county acts in  
5 accordance with all of the following:

6 (A) The building permit issued by the city or county for the  
7 alterations authorizes no greater human occupancy load, regardless  
8 of proposed use, than that authorized for the existing use permitted  
9 at the time the city or county grants the exemption. This may be  
10 accomplished by the city or county making a human occupancy  
11 load determination that is based on, and no greater than, the  
12 existing authorized use, and including that determination on the  
13 building permit application as well as a statement substantially as  
14 follows: “Under subparagraph (A) of paragraph (2) of subdivision  
15 (e) of Section 2621.7 of the Public Resources Code, the occupancy  
16 load is limited to the occupancy load for the last lawful use  
17 authorized or existing prior to the issuance of this building permit,  
18 as determined by the city or county.”

19 (B) The city or county requires seismic retrofitting, as defined  
20 in Section 8894.2 of the Government Code, which is necessary to  
21 strengthen the entire structure and provide increased resistance to  
22 ground shaking from earthquakes.

23 (C) Exemptions granted pursuant to paragraph (1) are reported  
24 in writing to the State Geologist within 30 days of the building  
25 permit issuance date.

26 (3) Any structure with human occupancy restrictions under  
27 subparagraph (A) of paragraph (2) shall not be granted a new  
28 building permit that allows an increase in human occupancy unless  
29 a geologic report, prepared pursuant to subdivision (d) of Section  
30 3603 of Title 14 of the California Code of Regulations in effect  
31 on January 1, 1994, demonstrates that the structure is not on the  
32 trace of an active fault, or the requirement of a geologic report has  
33 been waived pursuant to Section 2623.

34 (4) A qualified historical building within an earthquake fault  
35 zone that is exempt pursuant to this subdivision may be repaired  
36 or seismically retrofitted using the State Historical Building Code,  
37 except that, notwithstanding any provision of that building code  
38 and its implementing regulations, paragraph (2) shall apply.

39 *SEC. 2. (a) The Alquist-Priolo Earthquake Fault Zoning Act*  
40 *(Chapter 7.5 (commencing with Section 2621) of Division 2 of the*

1 *Public Resources Code) shall not apply to the University of*  
2 *California, Berkeley, including the California Memorial Stadium.*  
3 *However, the Legislature finds and declares that the University*  
4 *of California, Berkeley, including the California Memorial*  
5 *Stadium, requires seismic retrofitting, as defined in Section 8894.2*  
6 *of the Government Code, which is necessary to strengthen*  
7 *structures and provide increased resistance to ground shaking*  
8 *from an earthquake.*  
9 *(b) This section does not conflict with the intent or the*  
10 *applicability of any other provision of the Alquist-Priolo*  
11 *Earthquake Fault Zoning Act (Chapter 7.5 (commencing with*  
12 *Section 2621) of Division 2 of the Public Resources Code).*